

REMARKS

Claims 60-62, 64, 67, 69, 71-76, and 89-92 were pending in the present application. By virtue of this response, Claim 67 has been cancelled, and Claims 64 and 69 have been amended. Accordingly, Claims 60-62, 64, 69, 71-76 and 89-92 are currently under consideration. Amendment and cancellation of claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Claim Rejections - 35 USC § 102(b)

Claims 60-62, 64, 67, 71-76, and 89-92, stand rejected under 35 U.S.C. § 102(b) as anticipated by Hogan (US 5,699,434).

Claim Rejections - 35 USC § 103(a)

Claim 69 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Hogan.

Claim Amendments

Independent Claim 64 has been amended to read better on the specification at paragraphs 88, 91 and 92 and FIG. 5 and to improve clarity. As stated in paragraph 88:

In the specific example shown in FIG. 5 DSV patterns 28 have been incorporated in available space in the DOS header 26.

Continuing at paragraph 92:

DSV patterns 36 are also shown located immediately after the PE header 27. In this respect, the information about the size of the header, set out in control data 23 has been changed to include the data patterns 36. This insures that the DSV data patterns are read.

Hogan

Hogan takes a different approach with respect to his inserted DSV data patterns. He does not say exactly where these data patterns are to be inserted. The only relevant portion of Hogan appears to be as, pointed out by the Examiner, at column 6 beginning line 42:

A contrived sequence sufficiently long enough to insure a large accumulated DSV necessarily substantially increases the overhead for a block of data. Therefore, the use should be limited. For copy protection of software, it is sufficient to have only a few blocks with the extra overhead sequences, but preferably with key software or data in these “protected” blocks.

Hogan provides no illustration of these blocks or files showing how or where the DSV patterns are present. He also does not indicate any particular association between blocks and files. It is understood that typically a file would include several blocks.

Moreover, it is pointed out that Hogan’s reference to “overhead” does not refer to control data versus user data. Instead “overhead” appears to refer to the fact that inserting the DSV patterns results in a lengthening of the number of symbols over those required by the original data. The reference to “overhead” does not appear elsewhere in Hogan. It is believed that the reference to overhead may also refer for instance to the error detection and correction data symbols shown by Hogan at 104 in FIG. 1 and added as per standard DVD encoding practice. Hence, “overhead” is not a reference to control data *per se*.

Present Invention

In contrast as pointed out above in accordance with the present invention, DSV patterns are inserted in one embodiment as shown in FIG. 5 where the first DSV pattern 28 is inserted immediately after DOS header 26 and the second DSV data pattern 36 is inserted immediately after PE header 27.

As pointed out in the present application and as quoted above, this insures that the DSV data patterns are read since before any particular file is accessed during playback the file headers must be read.

Moreover, by modifying the size of the header information this makes sure that the playback device knows that the inserted DSV patterns are also present.

Claims Distinguish Over the References

Therefore Claim 64 has been amended to recite in its final portion “the DSV data patterns are incorporated immediately following at least two headers in the control data in the application file to insure that DSV data patterns are accessed by a player or reader of the optical disc during use of the application file and wherein information about the size of each header and the control data is modified to include the DSV data patterns.”

As pointed out above, this is not the case with Hogan.

First, Hogan does not indicate that his DSV data patterns are inserted in “control data.” It is believed that the Examiner in asserting this identified the “overhead” mentioned in Hogan with control data. However, as pointed out above “overhead” is not synonymous with or even similar to control data.

Further, there is no mention of file headers in Hogan. As pointed out above, locating the DSV data patterns immediately following the headers has the advantage of making the DSV patterns automatically read whenever the disc is accessed.

Further, as now recited in Claim 64, modifying the information about the size of each header ensures that the DSV data patterns are indeed read each time the file is accessed. This makes sure that the DSV patterns are actually read and so reliably perform their copy protection function.

This would not be the case with Hogan, since as pointed out in Hogan at column 6 beginning line 45, for software there may be only a few blocks with the extra overhead sequences (DSV data patterns). Moreover, for video Hogan recommends in the same paragraph that the DSV data patterns be inserted only once every 15 to 20 seconds. In either case, it is possible that the file may be accessed without necessarily reading these DSV data patterns.

The present approach provides better security against copying since with Hogan portions of a software program or video data may be subject to copying, due to his relatively sparse use of DSV data patterns and the fact that they may not be necessarily accessed each time the optical disc is used.

Further, with reference to the rejection of Claim 69 which includes subject matter now included in Claim 64, the Examiner stated “However, Official Notice is taken that at the time of the invention one of ordinary skill in the art would use a pointer or offset to point to the location of the DSV data pattern. Motivation to do so would have been that these are common well-known methods used.”

It is taken to mean by this that it is well known to use a pointer to point to a particular data location. This is not contravened here. However, it is pointed out that the use of the pointer is not recited in present independent Claim 64 but only in independent Claim 69 and so this rejection should be limited to the specific subject matter of Claim 69. It is believed it does not apply to the subject matter of present Claim 64.

Also, the Examiner in rejecting Claim 64, in paragraph 5 of the rejection at page 2, last paragraph stated “Hogan discloses . . . the application incorporating information and control data.” It is respectfully submitted that while it is well known that application files include control data, Hogan does not mention this and certainly does not recommend or even suggest putting the DSV data patterns in “control data”.

Hence the present rejection is not adequate even in rejecting the claims as earlier pending and certainly Hogan does not meet the claims as amended here. Thus Claim 64 distinguishes over Hogan.

The remaining claims are dependent upon Claim 64 and distinguish over Hogan for at least the same reasons as Claim 64.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance and this amendment is entitled to entry due to the accompanying RCE. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Attorney Docket No. 136922004600.

Rule 34

This paper is filed under Rule 34; the correspondence address remains that of Patent Department, Macrovision Corporation.

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